

**REMARKS**

Applicant respectfully requests that this Preliminary Amendment be entered in this case before the calculation of fees and before examination of the subject application.

**Claims**

Claims 1-26 have been canceled without prejudice or disclaimer of the subject matter therein. Applicant reserves the right to prosecute, in one or more patent applications, the canceled claims, the claims to non-elected inventions, the claims as originally filed, and any other claims supported by the specification.

New claims 27-60 have been introduced. No new matter is added.

**Support**

Support for the new claims is either obvious, or is as described in the text below. Particularly, support for the recitation of "five single amino acid substitutions, deletions or additions" may be found, for example, at page 7, lines 1-2. Support for compositions of the isolated polypeptide which include an adjuvant recited in the claims may be found, for example, at page 40, lines 28-29. Support for the stringent hybridization conditions may be found, for example, at page 14, lines 20-24. Support for the recitation of sequence relatedness such as "wherein the first polynucleotide sequence is identical to SEQ ID NOs:1 or 3, except that, over the entire length corresponding to SEQ ID NOs:1 or 3,  $n_n$  nucleotides are substituted, inserted or deleted, wherein  $n_n$  satisfies the following expression

$$n_n \leq x_n - (x_n \bullet y)$$

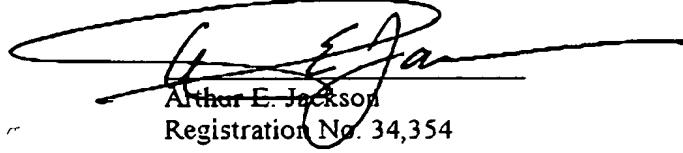
wherein  $x_n$  is the total number of nucleotides in SEQ ID NOs:1 or 3,  $y$  is at least 0.90, and wherein any non-integer product of  $x_n$  and  $y$  is rounded down to the nearest integer before subtracting the product from  $x_n$ " may be found in the specification, for example, at page 44, line 7 through page 45, line 2. Support for the recitation, "wherein the immune response recognizes an antigen having molecular weight 95 kD (by SDS PAGE) in *Moraxella catarrhalis* strains Mc 2931, 2904, 2905, 2906, 2907, 2908, 2909, 2910 and 2911" can be found, for example, in Example 6 at page 63, lines 4 and 5 and Figure 7.

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**Closing Remarks**

Entry of this Preliminary Amendment prior to calculation of fees and Examination and  
Allowance of the pending claims are respectfully requested.

Respectfully submitted,



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